

REMARKS

Applicant has carefully reviewed the Office Action mailed November 15, 2006 and offers the following remarks.

Claims 1-8, 10, 11, 15, 17-25, 27, 28, 32, and 34-36 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,631,188 B1 to Sands (hereinafter “Sands”). Applicant respectfully traverses. For a reference to be anticipatory, the reference must disclose each and every claim element. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. The requirement that each and every element be disclosed in the manner claimed is a rigorous standard that the Patent Office has not met in this case.

Before addressing the rejections, Applicant provides a brief summary of the present invention so that the remarks relating to the references are considered in the proper context. The present invention is directed to a call waiting service, which operates according to customized call waiting rules established by a user. The call waiting rules establish call waiting indicia. A service node controls the delivery of call waiting indicia and associated caller ID information to the user by communicating to a telephony switch via an intelligent signaling network. Primarily, the service node receives an incoming call indication indicative of an incoming call. Based on the incoming call indication and the call waiting rules, the service may provide or block a call waiting alert of that incoming call to the user.

Claim 1 recites “receiving an incoming call indication indicative of an incoming call intended for a user’s telephone terminal.” While Sands is directed to a call waiting system based on caller ID, Sands does not disclose “receiving an incoming call indication indicative of an incoming call.” In Sands, the actual call is sent to a controller. (Sands, col. 4, lines 10-14: “*The incoming call including the incoming message portion 74 thereof is provided to a controller 60 in the dynamic call waiting system 50 via the local switch 64.*”). The controller processes the incoming call using a dual-tone, multi-frequency (DTMF) detector unit. (Sands, col. 4, lines 24-36). Based on the actual call received, the controller sends messages to a local switch to facilitate the call waiting system. (*Id.* col. 6, lines 5-10). Therefore, the controller in Sands receives the incoming call, not “an incoming call indication indicative of an incoming call” as recited in claim 1.

Because Sands does not disclose “receiving an incoming call indication indicative of an incoming call,” Sands does not disclose each and every element of claim 1. Accordingly, Sands does not and cannot anticipate claim 1 and, therefore, claim 1 is allowable. Withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(e) is respectfully requested.

Claim 19 recites the same limitation discussed above with respect to claim 1 albeit in system format. Accordingly, Sands does not and cannot anticipate claim 19 and, therefore, claim 19 is allowable. Withdrawal of the rejection of claim 19 under 35 U.S.C. § 102(e) is respectfully requested. Also, claim 36 recites the same limitation discussed above with respect to claim 1. Accordingly, Sands does not and cannot anticipate claim 36 and, therefore, claim 36 is allowable. Withdrawal of the rejection of claim 36 under 35 U.S.C. § 102(e) is respectfully requested.

Claims 2-8, 10, 11, 15, 17, and 18 ultimately depend from claim 1 and claims 20-25, 27, 28, 32, 34, and 35 ultimately depend from claim 19. Since dependent claims contain all of the limitation of the claims from which they depend, claims 2-8, 10, 11, 15, 17, and 18 and 20-25, 27, 28, 32, 34, and 35 are allowable for at least the same reasons as claims 1 and 19, respectively. Accordingly, Sands does not and cannot anticipate claims 2-8, 10, 11, 15, 17, 18, 20-25, 27, 28, 32, 34, and 35, therefore, claims 2-8, 10, 11, 15, 17, 18, 20-25, 27, 28, 32, 34, and 35 are allowable. Withdrawal of the rejection of claims 2-8, 10, 11, 15, 17, 18, 20-25, 27, 28, 32, 34, and 35 under 35 U.S.C. § 102(e) is respectfully requested.

Claims 1, 9, 12-14, 16, 19, 26, 29-31, and 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0141559 A1 to Gurgun (hereinafter “Gurgun”). Applicant respectfully traverses. The standards for anticipation are set forth above.

As discussed above with respect to the rejection based on Sands, claim 1 recites “receiving an incoming call indication indicative of an incoming call intended for a user’s telephone terminal.” Gurgun is directed to a call waiting system using a processor located at the phone switch (Gurgun, Figure 3) or at the communication device (*Id.* at Figure 4). In either case, Gurgun discloses receiving a call but does not disclose receiving an “indication indicative of an incoming call.” (*Id.* Figure 1 and paragraph [0016]: “*At block 10, an incoming call directed to a first subscriber is received from a first caller*”; See also: paragraph [0018]: “*For example, the processor 300 is responsible for directing incoming calls...the processor determines whether*

that particular [subscriber] has selective call waiting service and whether call waiting service should be activated..."; and paragraph [0022]: "At block 730, an incoming call for the subscriber is received from a first caller.") Gurgun does not disclose "receiving an incoming call indication indicative of an incoming call." Therefore Gurgun does not disclose each and every element of claim 1. Accordingly, Gurgun does not and cannot anticipate claim 1 and, therefore, claim 1 is allowable. Withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(e) is respectfully requested.

Claim 19 recites the same limitation discussed above with respect to claim 1 albeit in system format. Accordingly, Gurgun does not and cannot anticipate claim 19 and, therefore, claim 19 is allowable. Withdrawal of the rejection of claim 19 under 35 U.S.C. § 102(e) is respectfully requested.

Claims 9, 12-14, and 16 ultimately depend from claim 1 and claims 26, 29-31, and 33 ultimately depend from claim 19. Since dependent claims contain all of the limitation of the claims from which they depend, claims 9, 12-14, and 16 and 26, 29-31, and 33 are allowable for at least the same reasons as claims 1 and 19, respectively. Accordingly, Gurgun does not and cannot anticipate claims 9, 12-14, 16, 26, 29-31, and 33 and, therefore, claims 9, 12-14, 16, 26, 29-31, and 33 are allowable. Withdrawal of the rejection of claims 9, 12-14, 16, 26, 29-31, and 33 under 35 U.S.C. § 102(e) is respectfully requested.

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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